

SLR:LDM:KKO  
F. #2014V00246

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA,

Plaintiff,

-against-

ONE ANCIENT ROMAN MARBLE  
SARCOPHAGUS LID WITH SCULPTURE  
OF RECLINING WOMAN,

Defendant in rem.

----- X

STIPULATION OF SETTLEMENT

Civil Docket No. 14-1318 (WFK)

WHEREAS, on or about February 27, 2014, a Verified Complaint in rem (the "Complaint") was filed in the above-captioned civil forfeiture action seeking the forfeiture of one ancient Roman marble sarcophagus lid with sculpture of reclining woman (the "Defendant in rem") pursuant to Title 19, United States Code, Section 1595a(c)(1)(A);

WHEREAS, on or about March 21, 2014, the United States sent notice of the Complaint to Noriyoshi Horiuchi, as a potential claimant to the Defendant in rem;

WHEREAS, Mr. Horiuchi initially had until on or about April 28, 2014, to file a claim pursuant to Rule G(4) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions;

WHEREAS, the Court extended the time for Mr. Horiuchi to file a claim, by Orders dated April 24, 2014, June 11, 2014, July 15, 2014, and September 8, 2014;

WHEREAS, Mr. Horiuchi states that, by and through agents, officers and employees of Art & Archaeology Inc. ("A&A"), an entity owned by Mr. Horiuchi, A&A obtained ownership of the Defendant in rem sometime in the late 1980s or early 1990s, after the Defendant in rem had been publicly exhibited in a Swiss museum in 1982 and 1983, and its exhibition had been published in an accompanying catalogue;

WHEREAS, Mr. Horiuchi states that he relied in good faith on the representations made by the seller of the Defendant in rem and the fact that it had been publicly exhibited and presented in a publication during its exhibition in the Swiss museum in 1982 and 1983, to conclude that the Defendant in rem was not stolen;

WHEREAS, Mr. Horiuchi, by and through his attorneys, agents, officers and employees, properly declared the Defendant in rem to the United States Customs Service upon the importation of the Defendant in rem into the United States in February 2001;

WHEREAS, Mr. Horiuchi states that he believed in good faith that the Italian Government did not claim ownership to the Defendant in rem because, as Mr. Horiuchi further states, he previously had disclosed his acquisition and possession of the Defendant in rem to the Italian Government;

WHEREAS, Mr. Horiuchi states that the Defendant in rem was transferred to him by A&A and that in approximately 2012 A&A was dissolved;

WHEREAS, Mr. Horiuchi, upon his receipt of notice of the Defendant in rem's seizure in the United States and the claim of ownership by the Italian Government, cooperated with the United States Attorney's Office in the above-captioned forfeiture action; and

WHEREAS, all parties now agree that the Defendant in rem should be forfeited with the intent that it be returned to Italy;

WHEREAS, the United States and Mr. Horiuchi, by and through counsel, wish to settle and resolve this matter without further litigation;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the United States of America, by its attorney Loretta E. Lynch, United States Attorney for the Eastern District of New York, and Karin K. Orenstein, Assistant United States Attorney, of counsel, and Noriyoshi Horiuchi, by his attorney, Henry E. Mazurek, Esq., of Clayman & Rosenberg LLP, that:

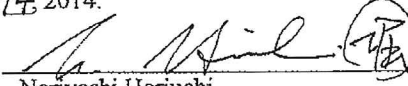
1. Mr. Horiuchi represents he possesses an ownership interest in the Defendant in rem.
2. Mr. Horiuchi, having been served with a copy of the Complaint, agrees not to file an Answer or claim of right, title or interest to the Defendant in rem or to contest its forfeiture to the United States pursuant to Title 19, United States Code, Section 1595a(c)(1)(A) in the above-captioned proceeding or any ancillary proceedings.
3. Mr. Horiuchi understands and agrees that by entering into this agreement, he waives any rights to further litigate any claimed interest in the Defendant in rem or to petition for remission or mitigation of the forfeiture of the Defendant in rem. Mr. Horiuchi waives his rights, if any, to use the above-captioned action as a basis to bring any administrative or judicial civil cause of action against the United States Government or as a basis for statutory or constitutional defense in any administrative or civil action.
4. Mr. Horiuchi hereby releases, remises and forever discharges any claims, rights, title, or interest he may have in the Defendant in rem.
5. Mr. Horiuchi hereby consents to the seizure and forfeiture of the Defendant in rem pursuant to Title 19, United States Code, Section 1595a(c)(1)(A).

6. This stipulation shall not, in any way, be construed as an admission of culpability, liability, or guilt by Mr. Horiuchi or any of his agents or representatives, past and present, or of the United States or any of its agents, officers or employees, past and present. Forfeiture of the Defendant in rem shall not be considered as a punishment or penalty of any kind.

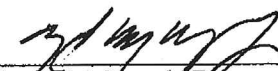
7. Mr. Horiuchi and his heirs, assigns and representatives, hereby agree to release, indemnify and hold harmless the United States, and any officers, agents, and employees, past and present, of the United States, including, but not limited to, the United States Department of Justice, the United States Attorney's Office for the Eastern District of New York, DHS, Homeland Security-Investigations and CBP, from and against any and all claims for relief or cause of action for any conduct or action in any way connected to the detention, seizure, custody, and forfeiture of the Defendant in rem or arising from the provisions of the above-captioned action and this stipulation.

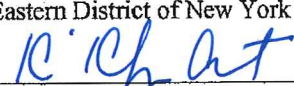
8. The signature pages of this Stipulation of Settlement may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. Signature pages may be by fax and such signature shall be deemed as valid originals. Mr. Horiuchi agrees that a copy of this stipulation bearing his notarized signature will be sent to the United States within 30 days.

9. Each party shall bear its own costs and attorney fees.

Dated: Tokyo, JAPAN  
City Country  
September 14 2014.  
  
Noriyoshi Horiuchi

Agreed and Consented to:

By:   
Henry E. Mazurek, Esq.  
Clayman & Rosenberg LLP  
305 Madison Avenue, Suite 1301  
New York, New York 10165 (212) 922-1080  
*Counsel for Noriyoshi Horiuchi*

LORETTA E. LYNCH  
United States Attorney  
Eastern District of New York  
By:   
Karin K. Orenstein  
Assistant United States Attorney  
Eastern District of New York  
(718) 254-6188